



FD

United States
Department of
Agriculture

SEP 30 1997

Food and
Consumer
Service

Reply to
Attn. of: SP 97-28

Mountain Plains
Region

Subject: Family Education Rights and Privacy Act (FERPA)
And Free and Reduced Price Eligibility
Information

1244 Speer Blvd.
Denver, CO
80204-3581

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa,
(Child Nutrition Programs) Kansas, Missouri ED,
Montana OPI, Nebraska ED,
North Dakota, South Dakota,
Utah and Wyoming ED

We have been asked if FERPA, which is a Federal statute that governs the confidentiality of certain student educational records, governs or affects the confidentiality of free and reduced price eligibility information gathered as part of administration of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Special Milk Program (SMP). We wish to affirm that the student educational records at issue under FERPA, including what we understand is called the "child's education record", do not include any of the free and reduced price eligibility records established as part of administration of the NSLP, SBP and SMP. The Federal statutory bases for the operation of the NSLP, SBP and SMP are the National School Lunch Act (NSLA) and the Child Nutrition Act (CAN), and FERPA does not amend these acts or govern the administration of these programs in any way.

The release of confidential individual student's free and reduced price information, by NSLP/SBP/SMP administrators, without the signed authorization of the child's parent or guardian, is, as we have continually emphasized, not required under any circumstances. It can only be permitted under certain very limited circumstances, which are authorized by Agency memoranda (our SP 95-15, SP 96-08, and SP 97-23), or by final Federal regulations, which at this time have not been issued.

If you have any questions, please contact our office.

for Edward F. Campbell
ANN C. DEGROAT
Regional Director
Child Nutrition Programs